

1915

## Report of Committee on Discharged Prisoners

Edward F. Waite

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

---

### Recommended Citation

Edward F. Waite, Report of Committee on Discharged Prisoners, 5 J. Am. Inst. Crim. L. & Criminology 555 (May 1914 to March 1915)

This Article is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

## REPORT OF COMMITTEE ON DISCHARGED PRISONERS.<sup>1</sup>

EDWARD F. WAITE.<sup>2</sup>

For many years the Prison Congress has listened annually to the report of its Standing Committee on Discharged Prisoners. Unless the field assigned to the committee has been a phenomenally fruitful one, it would seem that by this time its fertility must be well nigh exhausted. What remains for us to do? This question has so insistently recurred to the mind of the present chairman, in contemplation of a report at this meeting, that he has been moved to examine rather carefully the previous reports to which he has had access, namely those since and including 1886. While he has found a quite surprising variety in the treatment of the general theme, due to the ingenuity and research of some of the chairmen, he has also found repetition in abundance. Has not the time arrived to take much for granted and pass to new aspects of the subject, if there are any; or at any rate to matters about which it is not clear that all are yet agreed? It is perhaps the more appropriate that the committee should now survey the field and attempt to define its proper task, because its territory has been greatly narrowed through the appointment last year of the new Committee on Probation and Parole. For the first time the association differentiates, in its standing committee assignments, between the paroled or conditionally released prisoner and the man who is released without condition, or, properly speaking, discharged. Henceforth we shall avoid the confusion which has attended the use of the term "discharged prisoner," at these gatherings.

While one might wonder a little that the distinction was so slow to gain express recognition, it should be remembered that it is only within recent years that conditionally released men have been numerous enough to be appropriately grouped in a separate class. At the end of the second decade of the life of this association, the Elmira Reformatory and two or three of its earliest imitators were the only penal institutions in the world which admitted prisoners to parole before final discharge. It was natural that this method should engage the attention of those who have been charged with preparing the reports of this committee. There are three possible attitudes toward the man who turns his back upon the prison gate and steps forward into

---

<sup>1</sup>Presented before the American Prison Association, St. Paul, Minn. Oct. 7, 1914.

<sup>2</sup>Chairman of the Committee, Judge of the District Court of Minnesota, and President of the Minnesota division of the Society for the Friendless.

freedom, complete or qualified—the attitude of *laissez faire*, the attitude of hostile espionage, and the attitude of friendly aid. Plainly the last is the only one to be expected among persons interested in the scientific and humane treatment of crime and the offender. There is no problem of the released prisoner consistent with the spirit of this organization except the problem of rehabilitation. Accordingly one is not surprised to find that much of the work of the Committee on Discharged Prisoners has been devoted to the promotion of the parole system and its pre-requisite, the indefinite, or indeterminate, minimum sentence. It is certain that the progress of this great reform has been due in large measure to its repeated discussion by this association, and in such discussion the Committee on Discharged Prisoners has had a leading part.<sup>3</sup> What remains to be done in this field will doubtless be considered by the new Committee on Probation and Parole, who may be confidently expected to take the ground that there should be no final discharge until there is a fair chance of future abstinence from crime. The Committee on Discharged Prisoners has been relieved of the task which may well be regarded as the most important one to which it has addressed itself hitherto, a task which will not be completed until the principle of parole has been adopted for every American penal institution, and adequate methods have become universal. Henceforth the work of the Committee on Discharged Prisoners will be restricted to the subject-matter which its name properly connotes. Is there anything for it to do except to gather and report from year to year information as to what is actually being done by private and official agencies to help the discharged man regain, or in some cases gain for the first time, a normal status in the community? This would be well worth while as an interchange of experience and suggestion, and might be made a basis for valuable statistics. But if as respects principles and methods in its present field there remain important points which have not yet been considered by this association or upon which opinion is still divided, it would seem that one useful task which lies before the committee in the immediate future is to note and present such points and undertake to bring the association to common views concerning them.

If parole were universal; and if it were long enough, or the progress of the released man rapid enough, to always complete the work of rehabilitation during the parole period, the work of this committee would diminish to the vanishing point. The new committee would

---

<sup>3</sup>See, for example, the admirable résumé, with consideration of principles and methods, in the report prepared by Dr. O. F. Lewis for the Baltimore Congress, in 1912.

## REPORT ON DISCHARGED PRISONERS

have the whole field. But we cannot reach that happy consummation until we have the true indeterminate sentence for all offenders, thoroughly efficient supervision and wise constructive aid during parole and infallible tests for discharge. Meanwhile some prisons will continue to discharge men without parole, and all prisons and reformatories will continue to discharge some men in whom parole has not had its perfect work. We shall have with us, therefore, for a considerable time to come, the man whose course in penal discipline has not adequately equipped him with Mr. Whittier's three Rs—"Self-Respect, Self-Reliance and Self-Restraint"<sup>4</sup>; and there is little prospect that the Committee on Discharged Prisoners will soon find itself out of a job.

In mapping out our progress there are surely some things which, after these years of discussion, we may consider well established. That prison discipline should be directed to the end of rehabilitation, and that official supervision during parole (when parole is provided for) should seek the same end, all will agree who have passed beyond the vindictive theory of punishment for crime. Until we reach such a point of enlightenment in law and administration that the unfit shall not be discharged, the agency which takes the discharged man in hand should receive him only after warden and parole agent (if any) have done their best with him. But even thus, the sad plight of the friendless man who is discharged without parole, or after brief and ineffective parole, is well understood in these gatherings. The need for wise assistance in finding work, overcoming obstacles and discouragements, escaping avoidable temptations and building up character is fully recognized. That here is a proper field for brotherly sympathy and helpfulness whether there be official aid or not, to give him, in Dr. Fredenhagen's happy phrase, "not charity but a chance," nobody will deny. That the religious motive is most important both to the friend and the befriended all will concede who know the inspiring and uplifting power of the Christian faith. This committee, as well as the Committee on Probation and Parole, will therefore need the continued co-operation of the prisoners' aid societies.

But in the suggested possibility of official aid we are brought already to a disputed point. Should the state concern itself with the discharged prisoner—unless, of course, he falls again into crime? The very essence of a discharge from penal custody is that it wholly dissolves the relation of duress which has existed. What further, if anything, remains for the state to do in order to fully perform its duty to

---

<sup>4</sup>Report of committee in 1910, p. 30 of proceedings of Washington Congress.

its former ward (I use the word advisedly) and best serve its own interests? The question has never received attention from this association commensurate with its importance. There has been much and useful discussion of the respective provinces of the state and the private organization in dealing with the man on parole, but until the paper read by Mr. John Koren in connection with the 1912 report of this committee the proposition that the state ought to concern itself with the discharged prisoner after he has left the prison precincts with his suit of clothes, transportation ticket and paltry sum of money, was never definitely presented to a national prison congress. As early as 1889 the committee in a report prepared by Mr. Round, earnestly took the ground that such a course would be inconsistent with sound public policy. This position was restated in the report for 1894; and although suggestions to the contrary have sometimes appeared in the discussions, there has been no clear challenge of Mr. Round's position except Mr. Koren's paper, the weight of which, it must be admitted, is derived rather from the authority which attaches intrinsically to the opinion of its distinguished author, than from the fulness and conclusiveness of its reasoning. It is not clear that Mr. Koren keeps in mind the distinction between men who are paroled and those who are absolutely discharged, although it is plain that he includes the latter as objects of what he terms "an unrecognized obligation" of the state. The question may fairly be considered an open one; and its importance to accurate thinking about the discharged prisoner is fundamental. We therefore suggest as the first item of a program for the future work of this committee, a thorough consideration of the state's relation to the discharged prisoner.

Our parole and indeterminate minimum sentence laws need the test of experience which can be applied only through the collection of the most full and authoritative information possible regarding the careers of ex-prisoners after final discharge. Such information would also have a most important bearing upon the different theories of penal and reformatory discipline. By their fruits should they be judged; and if we are to determine relations of cause and effect we must at least know the sequential facts. Further, by gathering and making really scientific use of data upon reformation and recidivism much may be contributed to the next great penal reform, the indeterminate maximum sentence. Here again is an appropriate item for our program. Should we not appoint a qualified commission to devise a practical scheme for gathering and formulating statistics?

A neglected group of discharged men may be found among short-term misdemeanants, turned loose in appalling numbers from jails and

## REPORT ON DISCHARGED PRISONERS

workhouses. Many of these are "floaters," friendless and handicapped in the struggle for existence by physical or mental defect, lack of industrial training or long addiction to vicious habits. While here and there a humane and progressive workhouse superintendent does his best to effect a first step toward reform, it is true as a general statement that for the rehabilitation of this vast army of offenders the state does nothing during imprisonment nor after discharge. The tendency of the prisoners' aid societies is to concern themselves almost exclusively with men released from major institutions. The community as a whole is not even trying to do its duty to the less conspicuous but often equally distressful and needy minor offender; and the price of its neglect is vast expense and large increase of crime through preventable recidivism.

The desirability of institutional homes for the temporary care of discharged prisoners is still an unsettled question, though it has been frequently discussed at former congresses. Much of the opposition offered has been based on theory alone; but when one seeks to apply the test of experience he is confronted with the fact that all the presentations of experience have come from those who were actively engaged in the conduct of such institutions and whose recitals and conclusions may not unnaturally, though of course, unconsciously, be colored somewhat by their preconceptions. One thing is quite certain, either the temporary Home (when spelled with a capital) is either good or bad, in its very nature it cannot be indifferent. It is therefore of great importance that the influence of our association should be thrown in favor of sound views concerning this institution. Should not the Committee on Discharged Prisoners through an impartial and competent commission give the subject thorough study? Doubtless a favorable report, with explanation of methods demonstrated to be successful, would do much to promote the wider use of an agency which, if good, must be very good indeed.

Among other questions which seem to fall appropriately within the province of this committee, and which we do not find conclusively answered in previous reports and discussions, we select the following:

Should executive pardon and commutation of sentences be abolished? If not, in whom should this power be vested, and how safeguarded? What, if any, lessons are to be learned from experience relative to the exercise of the pardoning power?

Should there be general legislation, and if so, what, to provide for compensation to those who have been wrongfully convicted and imprisoned? What amends, if any, should society make to the man who has been unjustly indicted and imprisoned pending trial, and whose innocence is affirmatively established?

EDWARD F. WAITE

What is the proper basis for payments in money to men who are discharged without parole? If earnings are paid, should this be done in a gross sum or in installments?

How may we promote such an attitude of the police toward the discharged man as shall secure the degree of surveillance needful for the protection of the community, without undue and hostile espionage?

We are not professing to cover the entire range of profitable inquiry. Neither would we seem to minimize the value of the customary accounts of work actually accomplished by the agencies whether official or voluntary, which are really doing things for the discharged prisoner. We concur in the opinion expressed by Mr. A. W. Butler and by others at these congresses in different words, that "the greatest work that can be done for the discharged prisoner is the education of the people." To this end the public reiteration of the needs of the discharged men, the recital of facts that show how these needs may be supplied, and the stirring of the public conscience to realize the obligations of the strong to the weak, are of undoubted value, even if all that is said is familiar to regular attendants upon the meetings of this association. Get the public right in its attitude toward the ex-prisoner and the problem of rehabilitation is solved so far as respects environment and opportunity. The rest lies with the individual himself.

We are conscious that in this report we are making no immediate advance toward the clearing up of the still unsolved problem of the discharged prisoner. But we shall have accomplished our purpose if we have contributed to a clear understanding of the field in which this committee may most profitably perform its future work. Only by some such survey, it has seemed to us, may waste of time and duplication of effort be avoided. We seek to place the stakes in order that those who shall come after us may the more effectively make their intensive explorations and do their constructive work.